

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: SPAC DATE TYPED: 3/21/03 HB _____
 SHORT TITLE: Foreign Adoption Provisions SB CS/397/aHJC
 ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI		(See Narrative)	Recurring	General Fund

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative	Recurring	General Fund

SOURCES OF INFORMATION

Responses Received From
 Children Youth and Families Department
 Office of the Attorney General
 Administrative Offices of the Courts
 Commission on Status of Women
 Office of Indian Affairs.

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee has amended the Senate Public Affairs Substitute for Senate Bill 397 to include, with the department's grant of rule making authority, the ability to assess fees.

The amendment also makes a grammatical, stylistic change to the bill. This amendment is non-substantive.

Synopsis of Original Bill

Senate Bill 397/SPACS amends New Mexico's current Adoption Act (Act) to clarify its application to international adoptions, and to ensure compliance with federal laws and regulations governing such adoptions.

The bill sets forth the following with regard to international adoptions:

1. The definition of "accrediting entity", stating this is an entity that has entered into an agreement with the United States secretary of state pursuant to the federal Intercountry Adoption Act and regulations adopted by the United States secretary of state pursuant to that Act.
2. The definition of "adoption service", stating such services include:
 - Identifying a child for adoption and arranging the adoption;
 - Securing termination of parental rights to a child or consent to adoption of the child;
 - Performing background study on a child and reporting on the study;
 - Performing a home study;
 - Making determination regarding the best interest of the child;
 - Performing post-placement monitoring; and
 - When there is a disruption before an adoption is finalized, assuming custody of the child, providing or facilitating the provision of care for the child pending alternative placement.
3. The definition of "convention adoptions", clarifying these are adoptions by a United States resident of a child who is the resident of a foreign country that is a party to the Hague Convention on Protection of Children and Co-operation in Respect of intercountry Adoption, or an adoption by a resident of a foreign country that is a party to the Hague Convention of a child who is a resident of the United States.

Parties to this convention have come together to institute processes and protections to prevent the abduction, trafficking, and abuse of children in their intercountry adoptions.

4. CYFD is authorized to act as an accrediting entity on behalf of the state.
5. CYFD is also authorized to assess fees for the cost of accrediting an agency, or approving a person in matters related to convention adoptions. These fees are not set or specifically capped by the statute. However, the statute does state that these fees must be similar to fees set for other services offered by the department. The fees are to be developed, ap-

proved and adopted pursuant to the department's rule making authority and process.

6. The required contents of an adoption petition involving an intercountry adoption, including a certificate from the United States secretary of state that certifies: (1) the adoption is a convention adoption and the country from which the child is adopted is a party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, (2) the agency or person who provided the adoption services has been accredited, and (3) the adoption has been appropriately filed in with the judiciary bodies necessary.
7. The bill expressly states that a convention adoption in a foreign country that is certified by the United States secretary of state shall be recognized as a final adoption.
8. Finally, the bill includes new requirements for a "nationwide" criminal history records check to be conducted on every person who files a petition to adopt a child, and provides for the confidentiality of these records.

Significant Issues

CYFD asserts the following:

1. This bill makes the necessary changes to the Act such that it is brought into compliance with federal statutes and regulations governing international adoptions. According to CYFD, the bill makes the most critical change needed. This bill designates the department as the accrediting entity for agencies handling international adoptions.
2. Also, the bill provides for the collection of fees to support the state's obligations, which is not provided under New Mexico's current law.

FISCAL IMPLICATIONS

SB 397 does not contain an appropriation and will not have a direct impact on the state. However, administration of the requirements of this bill will result in an increased expenditure of CYFD FTE and budget resources, as well as the courts' FTE and budget resources.

SB 397 will also result in an increase in revenue to the general fund because the fees to be collected for such services as accrediting an agency, approving a person in matters relating to convention adoptions.

OTHER SUBSTANTIVE ISSUES

CYFD also asserts the following:

1. CYFD is the obvious agency to handle this process because it oversees private adoption agencies.
2. If no state agency is authorized to do the accreditation when the federal regulations become effective this year, the United State Secretary of State would have to enter into an agreement with a private entity to do international adoptions. This would be

much more costly to the agencies seeking certification and would leave those agencies without needed state supervision.

SJM/njw